

Representing disabled members

Steward's guide



Who is this guide for?

This guide is for UNISON stewards who represent members in the branch. It should be read in conjunction with 'Member Representation: A UNISON Guide'.

TUC research has found that disability issues are by far the most common equality questions workplace reps deal with. However the same research found that only 36% of trade union stewards felt they had enough guidance to do this work.

UNISON stewards undergo regular training which includes a strong equalities dimension. However disability discrimination law is complex. This guidance aims to make it easier for stewards to identify whether a member is disabled and whether they might be entitled to additional protections.

It should also help the branch to ensure cases of disability discrimination and failure to make reasonable adjustments are identified at an earlier stage. Overall, the guidance should help you to offer the best quality representation to disabled members in your branch.

Are there any disabled members in your branch?

Definitely! We estimate that up to 200,000 of our UNISON members are disabled. This is based on government statistics that say 12% of people in work are disabled. Government data also shows that disabled workers are more likely to be trade union members than non-disabled workers. They are also more likely to deliver public services. So you will almost certainly have some of those 200,000 disabled members in your branch.

First things first – what is the social model of disability?

The social model of disability is a way of thinking about disabled people which is a change from more traditional ways of thinking. For centuries disabled people have been seen as 'the problem'. The social model flips this on its head. Instead it identifies society as 'the problem' and focuses on the ways in which society can be changed to eradicate discrimination and empower disabled people.

Using the social model of disability means that we look at the barriers disabled people face (steps, lack of flexible working, etc) and find ways to overcome or reduce these through adjustments to the physical environment and to attitudes and structures in society.

UNISON is committed to the social model but some employers still use a medical model approach. One of our bargaining aims is to try and educate employers to use the social model.

What does the law say?

The Equality Act 2010 (and the Disability Discrimination Act 1995 in Northern Ireland) protects disabled people, which includes job applicants, workers and former employees, and makes the following unlawful:

- Direct discrimination. Where a disabled person is treated less favourably than others because of disability.
- Indirect discrimination. Where a provision, criterion or practice disadvantages disabled people who have a shared disability without objective justification.
- Harassment. Where a disabled person suffers unwanted conduct related to disability that has the purpose or effect of violating the disabled person's dignity, or creates an intimidating, hostile, degrading, humiliating or offensive environment.
- Victimisation. Where a disabled person suffers a detriment because they have made, or intend to make, a complaint relating to the Equality Act 2010 (such as disability discrimination) in good faith.

These rights also apply to other groups who have a 'protected characteristic' under the Equality Act 2010, including members who are women and Black and LGBT+.

However, there are two specific rights in the Equality Act that only apply to disabled people. These are the right to protection from 'something arising from a disability' and – crucially – the right to 'reasonable adjustments'.

Discrimination arising from disability occurs where a disabled person is treated unfavourably because of something arising in consequence of the disability and the discriminator (normally the employer, but sometimes an individual manager or colleague) cannot show that the treatment is a proportionate means of achieving a legitimate aim.

Take as an example where an employer dismisses a worker because they had four months' sick leave after being diagnosed with cancer. The employer's decision to dismiss is not because of the worker's disability (which would be direct discrimination), but the worker has been treated unfavourably because of something in consequence of their disability: the need to take a period of disability-related sick leave. The employer must prove the treatment can be objectively justified as both an appropriate means of achieving the legitimate aim and a reasonably necessary means of doing so.

Employers also have a duty to provide reasonable adjustments where they know, or ought to have known, the job applicant, worker or former employee was 'disabled'. This means the

disabled person must show they meet the definition found under the Equality Act 2010.

The duty can arise where a disabled person faces a 'substantial disadvantage' from:

- An employer's provision, criterion or practice (PCP), such as a workplace policy on allocating car parking spaces only to senior managers. A worker who is not a senior manager, but has a mobility impairment may need to park very close to the office.
- A physical feature of the workplace. For example, clear glass doors may cause a hazard for a visually impaired worker.
- Failing to provide an auxiliary aid or service. For example, a disabled person may need an adapted keyboard or software.

The rights of disabled people under the Equality Act 2010 mean employers need to treat disabled staff more favourably than someone who is not disabled, in order to overcome the barriers faced, so ensure you explain this to employers who try to argue they need to treat everyone 'equally'.

There is no 'one size fits all' list of what is reasonable. Ultimately, each case will be assessed on its particular circumstances. Deciding whether an adjustment is 'reasonable' can take into account practicability and cost issues and the overall resources of the employer will be taken into account by the courts, not just a local office budget. However the most important issue will be whether the adjustment removes or reduces the substantial disadvantage of the disabled person.

Tribunals have wide-ranging powers to award compensation and make recommendations against employers who have unlawfully discriminated against disabled staff.

Claims to an employment tribunal must normally be lodged within three months (less one day) from the date of the discriminatory act or omission complained about. This can be complicated where there are multiple complaints, as time runs from each complaint. Also it may not be clear when time runs from where the complaint involves an argument about an ongoing omission, for example a failure to implement reasonable adjustments. Each and every potential case is subject to UNISON rules on legal assistance.

Early conciliation with ACAS must also take place before claims of disability discrimination are lodged.

Your first meeting with your disabled member

Make sure you ask the member if they need any adjustments for their meeting with you. You might need to re-convene the meeting for another time in order to put in place the adjustments

they need. In the first instance the employer should provide reasonable adjustments but if this is not possible the branch should provide adjustments for meetings between the member and the steward. If there are financial issues with funding adjustments from branch budgets then you should contact the regional office.

The member may need to discuss personal information with you so you should ensure the meeting takes place somewhere private. This should be the case for all members, but is particularly important where the member may need to talk about their personal issues to do with their impairment.

After your meeting, make sure you have a clear understanding about the chronology of events and dates of any alleged discrimination.

A note on language

UNISON supports the social model of disability. As a result we try to use language that is empowering for disabled people.

In line with the social model, we use the term 'disabled people' as this makes clear that the person is disabled by society and not by something inherent to themselves. The actual health condition or experience – such as cancer, depression or being blind - is called an 'impairment'. It is when this impairment comes up against an inflexible society that it results in the person being 'disabled'.

However the most important thing is to ask the disabled member themselves how they want to be described. A key thing to remember is to try to use words that acknowledge people are disabled by society and to avoid negative words that medicalise, disempower or victimise disabled people. You can find out more in UNISON's Quick Guide to Disability Language which is listed in the Resources section below.

How do you know the member is disabled?

The answer to this is simple. You find out if a member is disabled by asking them about their circumstances. You will need to think about the barriers the person faces in comparison to someone who is not disabled.

Although there are some impairments that might seem obvious to you, the majority of disabled workers have impairments that are not necessarily obvious or apparent. This includes people with MS, HIV/AIDS, people who are neurodiverse or have mental health problems and workers who are hard of hearing. Some workers will have fluctuating impairments that only affect them some days. There are also many young workers who are disabled so do not assume it's only older workers.

In many cases the member may not see themselves as disabled and may not realise they are covered by protections in the Equality Act 2010. We've all been brought up in a society that routinely discriminates against disabled people so some people may not want to define themselves as disabled.

It is therefore very important not to assume a member is not disabled just because their impairment is not obvious or they haven't said they are disabled.

Some reps worry about asking a member if they are disabled. There is still a lot of stigma and discrimination against disabled workers and reps may unduly worry about raising the issue.

So that the member feels safe and able to tell you if they have impairments which mean they are likely to be disabled, it is important to ask this question in a sensitive and supportive way.

Members who become disabled

Any worker can become disabled through their working life. It is not uncommon for people to become disabled as they get older or as a result of a workplace injury. Just because the member wasn't disabled when you first started working with them doesn't mean they won't become disabled over the course of your time representing them. If a member becomes disabled during the course of a personal case they may be entitled to reasonable adjustments to the process.

Encouraging members to declare their disability

Disabled workers are entitled to reasonable adjustments where the employer knew or ought to have known that the worker was disabled. Although there are some cases where it will be obvious that the worker is disabled and the employer may find it hard to claim they didn't know, in probably the majority of cases it won't be that obvious. It is therefore important that you support your member to tell the employer that they are disabled.

If your member does not tell the employer that they are disabled then the employer will argue it does not need to provide reasonable adjustments.

However, understandably, many members will be wary about speaking to their employer. Members are often concerned about sharing personal information about their impairment(s) with their manager, particularly where it relates to mental health, and about being discriminated against as a result. Many employers will ask for evidence from a medical adviser to the member, such as to show the substantial adverse effect on day-to-day activities and how long the impairment has lasted, or is likely to last. Your role is to offer support and advice to the member in relation to their rights but in the end it will have to be their decision as to whether they tell their manager they are disabled.

How to negotiate reasonable adjustments

A common problem disabled members face in work is about lack of access to reasonable adjustments. The duty to consider making reasonable adjustments falls on the employer, but in practice, a request by an employee provides useful evidence of when adjustments ought to have been considered and will be relevant for calculating time limits in any claim to an employment tribunal.

A reasonable adjustment is a change to a physical feature of the work premises, a 'provision, criterion or practice' (for example workplace policy), or the provision of an auxiliary aid that removes or reduces substantial disadvantage to disabled staff in comparison to someone who is not disabled. Workers entitled to reasonable adjustments need to answer 'yes' to all of the following:

- Do you have a physical and/or mental impairment?
- Has your impairment lasted - or is it likely to last - 12 months or more?
- Does your impairment have a substantial (defined as more than minor or trivial) impact on your normal day to day activities, for example making a meal or doing your shopping?
- Do you face a substantial disadvantage in the workplace from a physical feature of the work premises, a 'provision, criterion or practice' (for example a workplace policy), or through an auxiliary aid or service being needed?

If the member can answer 'yes' to all of these questions then they are likely to be entitled to reasonable adjustments in the workplace.

Many employers will attempt to argue that a proposed adjustment is not 'reasonable', so cannot be made.

The UNISON guide 'Proving Disability and Reasonable Adjustments' gives comprehensive advice on how to prove your member is entitled to reasonable adjustments and also gives suggestions for adjustments based on specific impairments and conditions.

Some examples of reasonable adjustments could include:

- Doing things another way, such as allowing someone who experiences social anxiety to have their own desk instead of hot-desking
- Making physical changes, such as installing a ramp for a wheelchair user or an audio-visual fire alarm for a Deaf person
- Letting a disabled person work somewhere else, such as on the ground floor for a wheelchair user

- Changing their equipment, such as providing a special keyboard if they have arthritis
- Allowing employees who become disabled to make a phased return to work, for example working flexible hours or part-time

However every disabled member is different because the impairment will be unique to the individual's circumstances and there is no exhaustive list of adjustments that could apply. The most important thing is to speak to the member themselves and get them to identify what steps would help overcome the barriers they face in their job.

The employer will commonly argue that they can't afford the adjustments or they are not practical. However the courts take into account the overall national finances of the organisation in assessing whether the costs of adjustments are reasonable and Access to Work may also apply (see below). The employer needs to understand that the reasonable adjustment duty can require disabled workers to be treated more favourably in order to reduce workplace disadvantage.

If your member is refused reasonable adjustments then they may need to raise this as a grievance and you should speak to your senior steward or regional organiser. Make sure you ask the member to complete a CASE form.

Even where the employer agrees to adjustments, members often find that they have to wait months or even years for the adjustments to be put in place. Adjustments must be put in place within a reasonable timescale. But many employers just ignore this and it can be difficult to get them to take action. It can therefore be helpful to get the employer to agree in writing to a timeframe for the implementation of each adjustment so that this can be used to keep them to their word.

If the employer unreasonably delays putting in place an agreed adjustment your member should raise this as soon as it starts to look likely that this is what's happening. Focus on any act or omission that is inconsistent with the agreed adjustment and query whether this is for a reason arising in consequence of the disability. Whereas it's quite clear when an employer refuses an adjustment, it's not so clear where the employer doesn't actually refuse the adjustment but just doesn't do it. In these cases, because of the complicated way that time limits for tribunal claims can apply, it is always better to err on the side of caution and act "sooner rather than later" by speaking to your senior steward or regional organiser for advice.

A period of disability leave may be appropriate while waiting for the employer to put in place reasonable adjustments.

Access to Work scheme

Access to Work is a government funded programme delivered by Jobcentre Plus which aims to help disabled people start or stay in work. The programme offers advice and guidance and provides grants towards the cost of funding workplace adjustments for disabled workers to remove or reduce the barriers they face at work.

Depending on the size of the organisation, Access to Work will pay up to 100% of the costs for small employers and up to 80% for larger employers. This needs to be understood by employers who claim they can't afford to make adjustments.

Your member should contact Access to Work at an early stage as their report might help if the employer is disputing they are disabled or that reasonable adjustments are required.

Members can apply online at **www.gov.uk/access-to-work/apply** or phone JobCentre Plus on **0800 121 7479** or **0800 121 7579** (Textphone). They will need to provide their National Insurance Number and details of their employer.

UNISON has produced a Quick Guide to Access to Work that is listed in the Resources section below.

What if your member isn't covered by the Equality Act?

The Equality Act 2010 provides a definition of a disabled person that is not always used elsewhere.

UNISON supports the social model of disability that moves away from the traditional medical model which focuses on impairments and 'fixing' disabled people. The social model instead says society needs to change to allow disabled people to participate. However, the Equality Act is a mixture of the social and medical models and as a result some people who would benefit from reasonable adjustments aren't covered by the Act.

A steward can only advise a member on the likelihood of success in obtaining reasonable adjustments from an industrial perspective. These decisions are often quite complicated and may well be different to what an employment tribunal determines the legal position to be under the Equality Act 2010. A steward will not have the same information available to a tribunal, but can use their industrial experience to get successful results.

UNISON has also found that increasing numbers of employers realise that it is in their interest to make adjustments to the workplace to retain staff in employment and they are often willing to offer workplace adjustments to employees who may not fit the Equality Act definition of a disabled person. Increasingly our stewards find that if they explain to the employer the benefits

of extending adjustments to those not obviously covered by the Act they can negotiate adjustments that help a member to do their job, even if they don't clearly fit the Equality Act definition.

Representing disabled members at formal meetings

Like all our members, disabled members will come to you with a diverse range of issues and you may represent them in a variety of meetings including sickness absence, disciplinary, grievance, and others. However there are some common things to remember when representing disabled members in relation to any of these procedures.

A key point is to ask the employer for reasonable adjustments for the member attending such meetings. These could include:

- A workplace location or room that is accessible for the disabled member
- Case papers in large print or electronic format for a member with impaired vision
- Set end times to meetings where the member experiences fatigue
- Regular breaks in the meeting for a member who needs to take medication
- Clear explanation of each section of the meeting for a neurodiverse member
- British Sign Language interpreter for a Deaf member
- An adjustable chair for a member with chronic pain
- Adequate space for a member who uses a wheelchair
- Access to water for a member taking medication that causes dehydration
- Further examples can be found in the Equality and Human Rights Commission Code of Practice
<https://www.equalityhumanrights.com/sites/default/files/employercode.pdf>

This is not an exhaustive list and you should ask the member themselves what they need before the meeting takes place.

Representing members at sickness absence and capability meetings

Sickness absence meetings may often seem like more minor cases for a steward to pick up and in many cases there will be initial informal meetings that a steward wouldn't usually

be involved in. However, where the member is disabled, early involvement by the steward may well be helpful in reducing the chances of sickness absence issues ending up in a capability procedure with the member at risk of losing their job.

Whatever stage of the process you get involved at, you should first consider if the member is likely to be disabled. If so, then support the member in how they inform the employer that they are disabled if they haven't already done so. You should ask the employer to consider whether disability leave is appropriate as a reasonable adjustment.

Disability leave is planned or unplanned time off from work for a reason related to disability. It is a type of reasonable adjustment which disabled workers may be entitled to under the Equality Act 2010. A refusal to agree a reasonable request for disability leave may lead to a complaint about disability discrimination. Employers are expected to consider paid disability leave for treatment, rehabilitation or assessment of impairments related to the member's disability - or where the member is waiting for other reasonable adjustments to be put in place.

It is very common for workers to feel they have to take time off sick when they are waiting for the employer to implement reasonable adjustments. Consider whether any refusal of a request for disability leave involves disability discrimination. For example, it might breach the duty to make reasonable adjustments or amount to discrimination arising from disability that cannot be objectively justified.

Many employers use a 'trigger' system to move through stages of sickness absence management. Even if disability leave is not appropriate, you should ask the employer to consider whether it might be appropriate to change the trigger as a reasonable adjustment.

UNISON has a guide to negotiating Disability Leave which is listed in the Resources section and can be found on the Bargaining web page.

Representing members at grievance meetings

If your disabled member has taken out a grievance you should check whether disability discrimination (such as failure to make reasonable adjustments or discrimination arising from disability) should be included in the claim or whether you need to raise a separate Dignity at Work claim. Sometimes members don't realise they may be entitled to reasonable adjustments or they have been told acts of discrimination are just 'banter' so they don't think they can complain about it.

Always ask for advice from a senior steward or from your regional organiser if you are unsure about whether disability discrimination should be added to a grievance.

Grievance procedures can often last months and may end up in an unsatisfactory conclusion. Employers will normally respond to grievances in a way that protects their position against future claims and refuse to accept that disability discrimination has happened unless it is very obvious. Make sure your member is aware from the outset that this could be a long process and they may need to think about ways of maintaining their mental and physical resilience through what may prove to be a difficult time.

Where the member is dissatisfied with a disability discrimination grievance result you may need to seek advice from your senior steward or regional organiser, bearing in mind statutory timescales which may be more complicated than they initially appear.

Representing members at disciplinary meetings

Disabled members can often face particular disadvantage in disciplinary meetings. For example:

- Adjustments needed for the member to attend any meetings
- Information about the allegations will need to be provided in an accessible format
- Concerns about capability may often overlap with conduct and it should be considered whether the employer's complaint arises from the member's disability

If you think there is an aspect of a disciplinary case that could amount to disability discrimination then speak to your senior steward or your regional organiser as soon as you can. If the member complains that they have experienced disability discrimination, then you should consider requesting that the employer suspends the disciplinary procedure in order to resolve the grievances first, but note that an employer may decide to deal with both matters at the same time. This point is supported by the ACAS Code of Practice on disciplinary and grievance matters.

You should also ensure you complete a CASE form at the very start of the process. It is important cases are identified and registered in a timely manner so that your member gets the best service possible.

If your member is dismissed ensure you inform the regional organiser straight away. Do not wait for the internal process to be completed.

Representing members affected by restructure

With year on year cuts to public service budgets, restructure consultations are a very common occurrence for reps. The chances are that some of the staff affected will be disabled and

employers will sometimes use a restructure as a way of levering out disabled staff.

Many stewards find that a good way to start is to ask the employer to produce an Equality Assessment of the changes to make sure no group protected by the Equality Act is being disproportionately affected by the changes. The employer should have already carried out an assessment as part of the requirement that they “advance equality of opportunity” for people with protected characteristics under the Public Sector Equality Duty where it applies under the Equality Act 2010. But in many cases they won’t have done an Equality Assessment and you may need to press them to produce this. Employers should understand that they may need to pause the restructure timetable until this information has been provided, otherwise they could face scrutiny on this point in unfair dismissal and discrimination claims.

Once you have the Equality Assessment check if disabled staff are disproportionately affected by the changes. If there is an impact then the employer should set out steps to mitigate this impact as part of the assessment. The assessment should be robust and it should be more than just a tick box exercise. Mitigating steps should seek to remove or minimise the impact on disabled staff rather than just state empty platitudes.

Your member may be entitled to reasonable adjustments if they are facing a ring-fenced interview or assimilation by assessment process. This might include interview training or changes to the interview process such as being able to bring written notes or extra time for written tests.

Where your member is facing redundancy and believes this might be influenced by disability discrimination, you should advise the member to submit a grievance. A dismissal that is influenced by unlawful discrimination is most likely to be found unfair, although different legal tests and time limits must be met to prove the different claims.

Redeployment

In some cases your member may be offered redeployment. This could be because it has not been possible to adjust their existing role to allow them to continue in it or it could be as a result of a restructure. Evidence of an employer attempting to force a disabled worker into a redeployment situation will need to be explored carefully, to check whether it involves disability discrimination.

Many employers will have policies relating to redeployment, in particular there is often a 12 week period where the member is in the redeployment pool, after which they can be dismissed. Stewards often try to negotiate an extension to any such deadline as a reasonable adjustment.

It could be a reasonable adjustment that your member is guaranteed to be considered for any roles they are interested in, even if they do not have some of the essential requirements. You could ask that a training plan is put in place to address this.

The courts have found that redeploying a disabled worker to a job that is at a higher grade than their current role without competitive interview can be a reasonable adjustment. The key legal case here is *Archibald v. Fife Council* which was decided by the House of Lords in 2004.

Some employers will consider job carving as a reasonable adjustment. This is where parts of existing roles that your member can do are moved into a new job which would be suitable for the member (perhaps with other adjustments). So for example, where the member is a civil enforcement officer mainly working out and about, the four hours paperwork they do a week could be added to the four hours paperwork everyone else in the team does a week and this could become a new team administrator job. However you obviously need to be careful that the employer doesn't use this as an excuse to put anyone out of a job as a result.

Remember that in addition to rights under the Equality Act 2010, the member may also have other legal rights relating to unfair dismissal and redundancy.

Medical retirement

In all of the above it is however key that you understand what the member wants. In some cases they may want to accept medical retirement and ask you to try to negotiate this for them. Medical retirement is not actually a reasonable adjustment, as it does not remove the disadvantage to the disabled member, but a failure or refusal to consider an entitlement to medical retirement may make a decision to dismiss unfair.

Medical retirement is normally available through an occupational pension scheme, where rules will be applied strictly about when it may be granted. A qualified medical practitioner must provide a report confirming the relevant criteria of medical incapability has been met and the member must have ceased their occupation. Nonetheless, in some cases both the employer and the member will agree that no further adjustments can be made and that the best outcome for all is to agree to apply for medical retirement. The decision on whether to grant medical retirement is made by the trustees of the pension scheme and the employer, who must exercise their discretion rationally and in good faith.

Note that complaints about medical retirement often involve issues of disability discrimination to an employment tribunal as well as separate complaints to the Pensions Ombudsman. Different legal tests and procedural rules apply in the different legal processes, so it will be important to discuss this type of

case with your branch or regional colleagues at an early stage, who may need to speak to UNISON legal services as pensions are a reserved matter.

Working with Occupational Health

It is very common for employers to dispute that they know, or ought reasonably to have known, a member is disabled. Employers will also often attempt to argue that any knowledge about disability was limited to what information the member provided.

Although Occupational Health (OH) reports can be helpful, it is important to remember that they are not the final word. They are just one of the things the employer should take into account. Employers need to consider a range of factors and in the end it is only the courts that can decide whether disability discrimination has taken place. OH cannot give a definite answer on legal questions, they can only advise on what they have been asked to examine.

Nonetheless, in many cases stewards have found OH reports to be helpful in advising that a member is disabled and in recommending reasonable adjustments. Often the local manager may argue that the member is not disabled and not entitled to adjustments so an OH report can be very effective in overcoming this. The employer should therefore refer your member to OH if there are any issues around accepting that they are disabled or entitled to adjustments.

Members can be worried about meeting OH so it can be helpful to speak to them beforehand to explain the purpose of the meeting. OH will often allow members to be accompanied by a partner, family member or close friend when it has been requested in advance of the meeting. They should bring any GP report or letters they have from medical advisers, in addition to evidence that they receive any disability related benefits. Sometimes a signed statement from a partner or carer can help reiterate what day-to-day activities the disabled member cannot do in comparison to someone who is not disabled. It will help them to explain to OH the barriers they face if they think about how their impairment affects their job and what reasonable adjustments they might need in advance of the meeting.

The member is entitled to see any OH report before it goes to the employer. The member can also comment on the contents of the report and if they disagree with it they can ask for alternative views to be obtained, for example from their GP or a specialist. It will be important for the member to highlight anything that may have been misunderstood by OH in preparing its report. This is particularly the case if there are insufficient explanations on the criteria for disability under the Equality Act definition, for example, the extent of the impairment and its effects on day-to-day activities, as well as the length of time the impairment has lasted.

If the OH report is unhelpful the employer needs to understand that it is only advice and is only one aspect of what an employer needs to take into account. The employer must make up its own mind, but in the end, only the courts can decide if the member is covered by the Equality Act.

Employers should note the Gallop v. Newport City Council case from 2013 where the employer simply relied on OH reports which regularly stated the employee was not disabled. The Court of Appeal found that employers cannot simply “rubber stamp” an OH report and must instead give “active consideration” as to whether an employee is disabled.

What if the member wants a rep who is disabled?

While it might be understandable that a disabled member wants a rep who is also disabled, this may not be possible. We will always do our best to accommodate requests made by disabled members, but all of our stewards undertake accredited stewards training which includes training on equality legislation. All UNISON stewards should be able to represent a disabled member even if they are not disabled themselves.

If a disabled member makes this type of request, then consider working with the branch disabled members’ officer or Equalities Officer. You would remain the steward with responsibility for the case but you could seek additional expertise from your colleagues.

Empowering the member

Your role as a UNISON steward is to help the member, not to act in their place. Disabled members, like all of our members, are often well able to articulate their concerns to management when they have the right advice and support from a workplace rep. It is therefore important not to take over or to treat the member like they cannot make their own decisions. Your role is to empower the member.

Where a member has a personal assistant (PA), relative/friend or an interpreter, for example, it is sometimes tempting for the rep to focus on speaking to the PA and on asking them how the member feels. However this can disempower the member. The PA or interpreter is there to facilitate the member making their own decisions. So try not to focus on speaking to the member’s PA or interpreter. Talk to the member themselves. If the member has said that they are happy for their PA to speak for them, regularly check in with them that this is still the case.

If you are concerned that a member’s PA or relative/friend is over-stepping their role then consider whether this is a safeguarding issue that needs to be raised with the local authority social services team.

Identifying collective bargaining issues

Trade unions are all about taking individual issues and making them into collective workplace campaigns that can improve all of our members' working lives. When it comes to representing disabled members branches should be on the look out for any patterns or issues that can be used to change the employer's policies and improve the rights of other disabled members and potential members.

A first step could be to establish a strong equality and diversity agreement with the employer that can be effective in setting the tone across the organisation and encourages staff to disclose an impairment as they feel that such a disclosure will be treated positively.

Some other key areas the branch might want to look at include:

- Disability leave – does the employer have a disability leave policy? If not, can you get one agreed?
- Reasonable adjustments policy and passport – increasing numbers of employers are agreeing policies on reasonable adjustments to cut down on the time spent arguing on a case by case basis.
- Mental health – could the employer do more to improve staff mental health and reduce stress due to unrealistic workloads?

UNISON has bargaining guides on all of the above which are listed in the Resources section below and can be found on the Bargaining page of the UNISON website.

Getting disabled members involved in UNISON

Some of the very best stewards first got involved as members who had a personal case of their own. Being involved with their own case, they often realise they could be good at helping other people do the same. So always ask yourself whether the disabled member you are representing could become a steward when their case is completed. You are the best person to tell them about the job and you can also explain that they will get full training and support from senior stewards and full-time staff.

You should also talk to the member about getting involved in disabled members self organisation in UNISON. They might want to become the branch disabled members officer or attend the regional disabled members committee. We also hold an annual disabled members conference in the autumn to which branches can send delegates.

Make sure the member is signed up to receive UNISON's regular disabled members' eBulletin. They can do this by logging into MyUNISON and updating their status to 'disabled'. They will also need to tick the box saying they are happy to receive emails from UNISON.

Training

UNISON works with the TUC to provide all accredited stewards with Stewards Training which includes an equalities dimension. This is organised in each region and you should contact your branch for details.

UNISON Learning and Organising Services run a regular national training course on Disability Discrimination Law. For details contact **learningandorganising@unison.co.uk**

We offer national training at the UNISON Centre in London for Disabled Members Officers and Contacts or those interested in taking on these roles. Contact **disabilityissues@unison.co.uk** for more information.

Signposting disabled members with welfare benefits needs

The implementation of Universal Credit has been one of the most significant changes to social security in decades. As Universal Credit includes in-work benefits, stewards may find that members approach them for advice on their entitlement or with appeals. Personal Independents Payments (PIP) and Adult Disability Payment in Scotland are also in-work benefits that disabled UNISON members may qualify for.

UNISON offers a benefits calculator for members who think they may be entitled to benefit. The calculator can be found at this link - **<https://unison.entitledto.co.uk/home/start>**

If a member approaches you for advice you can signpost them to the following:

Branch welfare officer – If your branch has a welfare officer then you can refer the member to them in the first instance.

There for You – UNISON's charity There for You (previously called UNISON Welfare) offers signposting services for members who may be entitled to welfare benefits. They can be reached through UNISON Direct on **0800 0 857 857**.

Citizens' Advice – local Citizens Advice offer support in applying for Universal Credit.

Disability Rights UK – UNISON is affiliated to Disability Rights UK who provide a comprehensive set of fact sheets on welfare benefits and a Disability Rights Handbook which is updated annually. Their factsheets and handbook are available at: **<https://www.disabilityrightsuk.org/how-we-can-help/benefits-information/factsheets>**

Supporting survivors of disability hate crime and hate incidents

Disability hate crimes and hate incidents can take place anywhere – in the workplace and outside it, online and offline. Regardless of where the hate incident or crime takes place, UNISON encourages members to report it. There are many different ways to report a hate crime or incident, either directly to the police or through a third party reporting centre:

- **In an emergency** – call **999**
- **Contact the police** (non emergency): Call **101** to report an incident. You can speak to the police in confidence and you do not have to give your personal details
- **Report online** - This is the official website for reporting hate crime – www.report-it.org.uk
For Scotland - <http://www.scotland.police.uk/>
- **Crimestoppers** – report anonymously by calling **0800 555111**
- **Stop Hate UK** provides a confidential 24 hour helpline – **0800 138 1625** (text relay **18001 0800 138 1625**) - where incidents can be reported.
Video relay service - www.stophateuk.org/report-hate-crime/
- **Learning Disability Hate Crime** helpline **0808 802 1155** (certain areas only). Text relay **18001 0800 138 1625**.
- **Victim Support** helplines England and Wales – **0808 168 911**
Scotland – **0345 603 9213**
- Local organisations like the **Citizens Advice or Community Voluntary Service** can also help with support and direct you to charities and organisations which offer third party reporting facilities.

Organisations working for disability equality

Disability Rights UK – disabled people's organisation which UNISON is affiliated to. Provides fact sheets on disability issues and campaigns for equality - www.disabilityrightsuk.org

Inclusion Scotland is a disabled people-led coalition of organisations and individuals - www.inclusionscotland.org

Disability Wales/Anabledd Cymru is a disabled people-led organisation championing rights for disabled people in Wales - www.disabilitywales.org

Disability Action (NI) is a membership body made up of disability organisations which campaigns for the rights of disabled people in Northern Ireland www.disabilityaction.org

Resources

UNISON produces the following Bargaining Guides which the branch can use to negotiate with the employer for improved workplace policies for disabled members:

- **Reasonable Adjustments Bargaining Guide, Model Policy and Passport**
- **Disability Leave Bargaining Guide**
- **Negotiating Mental Health Policies Guide**

All of the above are available under the equalities section of our bargaining webpage at:

www.unison.org.uk/get-involved/in-your-workplace/key-documents-tools-activists/bargaining-guides/

UNISON also produces the following Representation Guides for stewards:

- **Proving Disability and Reasonable Adjustments - <https://www.unison.org.uk/content/uploads/2019/02/25362.pdf>**
- **Stewards Guide to Representing Deaf Members - https://www.unison.org.uk/26241_native-bsl1_stewards-guide/**
- **Member Representation: A UNISON Guide - <https://www.unison.org.uk/content/uploads/2016/02/23332.pdf>**

For members and for busy stewards the following UNISON Quick Guides are also available on

www.unison.co.uk/disabled-members

- **Quick Guide to Reasonable Adjustments**
- **Quick Guide to Access to Work**
- **Quick Guide to the Social Model of Disability**
- **Quick Guide to Disability Language**